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WEATHER
PAGE 5 —FAIR

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LETTER OUTLINES PLAN TO CAPTURE STATE FOR HUGHES

Sleep Sends Epistle Written
by S. Brown Allen to Su-
preme Court Justice.

ATTACK ON STATE CHAIRMAN
ONE OF MOVES IN CAMPAIGN

Fight Said to Be Under Leader-
ship of Former Postmaster-
General Hitchcock.

CABELL ISSUES FLAT DENIAL

Allen Also Says Letter Was Un-
authorized and on Own
Responsibility.

Statements in Letter "Absolutely Untrue"

It. E. Cabell, former Commissioner of Internal Revenue, issued the following statement last night:

"The statements contained in the alleged letter from Colonel S. Brown Allen relative to the activities of General Hitchcock are entirely without foundation. In fact, I have talked with General Hitchcock over the long-distance telephone, and he bears me out in saying that neither directly nor indirectly has there been anything which would serve as a foundation for the alleged facts recited in that letter relative to any political activities of General Hitchcock in Virginia. I say unequivocally that the statements in the alleged Allen letter relative to General Hitchcock are untrue."

"I have also talked over the long-distance telephone with Colonel S. Brown Allen, in Staunton, and he authorizes me to say that any statements he might have made in his letter relative to General Hitchcock were unauthorized and made on his own responsibility during the progress of a bitter factional campaign now raging in his district."

In a statement to The Times-Dispatch over the long-distance telephone from Staunton, Colonel S. Brown Allen said:

"I wish to say that I have written only one letter to and had one telephone conversation with General Hitchcock, and in neither one were the matters referred to in the letter set out by Mr. Sleep mentioned."

"This statement of Colonel Allen is corroborated by Mr. Hitchcock, who states that he has written but one letter to Colonel Allen, and that was merely an acknowledgment of a telephone call made by the latter."

WASHINGTON, February 9.—Representative C. Bascom Sleep, chairman of the Virginia Republican Committee, to-day made public a letter from Justice Hughes, saying:

"I am totally opposed to the use of my name in connection with the nomination or selection or instruction of any delegates in my favor directly or remotely."

Justice Hughes's letter, made public with his consent, was in reply to a letter from Mr. Sleep, which informed the justice that Frank H. Hitchcock, Postmaster-General under President Taft, had inaugurated a movement in the South favoring the justice for the Republican presidential nomination.

LETTER TO HUGHES
AND REPLY TO SLEEP

Chairman Sleep's letter to Justice Hughes and the reply of the latter follows:

"My Dear Justice Hughes:

"I take the liberty of writing to you in regard to a political situation that has developed in the State of Virginia. Conventions are called in the State to select delegates to attend the Republican National Convention at Chicago, June 7. The State convention is called for Roanoke, March 29; the district conventions at various times and places in the district."

"There is a general feeling in the State that the delegates in the State should go to the national convention uninstructed, and there, with the Republicans from the other States in the Union, assist in selecting the most available man as a candidate. I am chairman of our State committee, a member in Congress from a Republican district in our State."

"About ten days ago a movement started in the State, directed from New York City by Frank H. Hitchcock, former Postmaster-General, favoring you as a Republican nominee. He has secured around him in our State a few of his old appointees—Mr. R. E. Cabell, former Commissioner of Internal Revenue, now living at Richmond, Va.; Mr. B. A. Davis, postmaster under President Hitchcock, at Rocky Mount, and Mr. S. Brown Allen, former postmaster at Staunton, Va."

HAS OTHER LETTERS
OF SIMILAR CHARACTER

"I inclose you a copy of a letter written by Colonel S. Brown Allen to one of my friends, who forwarded the same to me. In this letter is explained a movement by Mr. Hitchcock, and I have other letters of similar character. You will observe it advocates an attack on me, as State chairman, and the organization generally, with the statement that Mr. Hitchcock is to be chairman of the national committee, and again Postmaster-General; therefore, the dispenser of patronage, and those who support me as presidential candidate will

(Continued on Second Page.)

MARDI GRAS, NEW ORLEANS.
\$25.75 round trip via SOUTHERN RAILWAY
Feb. 28 to March 6. Stopovers. Long limit.

Fears "Party Plot"



C. BASCOM SLEEP.

MERCHANTS OBJECT TO PROPOSED INCREASE

Retailers Say State Advisory Board
Plans to Unload Burden
on Them.

WILLING TO PAY THEIR SHARE

But Do Not Feel That They Are
Called Upon to Meet More Than
One-Fourth of Anticipated Deficit
in State's Revenue.

Retail merchants of Virginia are up in arms against the recommendation of the State Advisory Board on Taxation that the taxes upon them be increased about 50 per cent, according to William A. Clarke, Jr., secretary of the Virginia Retail Merchants' Association, who also occupies the same office with the Richmond organization.

Mr. Clarke remained at his office late last night, engaged in receiving long-distance telephone messages from merchants in all parts of the State and answering telegrams protesting against the contemplated action of the General Assembly.

"The State faces a deficit in the neighborhood of \$300,000," said Mr. Clarke, "and to help make up a part of this, the retail merchants, it is planned, must pay one-fourth, or about \$75,000. It is a hardship, and will seriously affect the small retailer. We propose to fight it to the end. Merchants all over Virginia are aroused."

MERCHANTS DO NOT OBJECT
TO PRESENT TAX LEVY

"We will certainly protest against this increase, which is in addition to city taxes. City taxes, especially in Richmond, are high. Norfolk is fortunate in having the easiest taxes upon its retail dealers. However, the merchants there are also vigorous in their protests against the proposed increase."

"Merchants are now paying a tax of \$5 on the first \$1,000 purchase and \$10 on purchases of \$2,000. We have no objection to this tax," continued Mr. Clarke. "We regard it as just and equitable. In fact," he said, "we have advocated this tax of \$5 and \$10 on the first \$1,000 and \$2,000 purchases of merchants."

"But we do protest when the State wants to call upon us to pay \$250,000, or one-fourth, of the deficit which the Auditor says is before the treasury of the Commonwealth."

STATE TRYING TO THROW
BURDEN ON RETAILER

"It is a matter of ease to ascertain the assets and liabilities of the retail merchants, especially the larger dealers, and even should any of these try to dodge paying their taxes to the State, it would be practically impossible. The State Advisory Board wants to throw the burden on the retailers; why don't the members of that body get busy and do something about the hidden taxes which have been untouchable?"

"If this plan goes through, Richmond merchants in particular will be handicapped. Taxes in Baltimore and Washington will be much less, and it is just as plain as A B C, if this increase in taxation is imposed upon the dealers of Virginia, that Washington and Baltimore shops can undersell us to such an extent that the people of this State will become their catalogue-buyers."

"The retail merchants of Virginia want to pay their proportionate share, but they also want fair play. The contemplated law will work a hardship upon the retailer, especially the small dealer."

MERCHANTS ARE WILLING
TO PAY THEIR SHARE

"This unjust tax will also affect the jobbers as well as the retail merchant."

"It is a known fact that land taxes are omitted in returns made to the State. If the State Auditor wants to make up the deficit, let him go after these. It is unjust that the burden should be placed upon the principal business men of the State. The merchants are willing to pay their share, but they want a square deal. If the proposed recommendation of the Advisory Board is enacted into law, it will not be a fair one."

"The small dealers all over the State are just awakening to the fact of the measure now pending in the General Assembly, and, I have no doubt, they will soon come in person to lodge their protest to their representatives in both House and Senate."

RATES WERE REDUCED AT
SPECIAL SESSION LAST YEAR

Members of the legislative committee of the Richmond Retail Merchants' Association held a meeting yesterday afternoon and discussed the situation. No definite action was taken, but it was the unanimous opinion that the

(Continued on Second Page.)

CONSOLIDATE GAME AND FISH CONTROL

Game Bill Is Recommended by
Its Patrons for Extensive
Amendment

HOUSE PASSES ANTIVICE BILL

Senate Concurs in Stephenson
Antigambling Measure—Would
Regulate Women's Skirts.

Believing that the sentiment in the present Legislature against the creation of new offices is too pronounced to assure the passage of the game bill in its present form, the patrons of this measure, through Delegate Willis, of Hanover, secured its recommendation yesterday to allow the incorporation of amendments which will overcome this difficulty.

The patrons of the bill, eight in number, have agreed on a plan to place the administration of the game law under the Commission of Fisheries. In order to bring this change about, they propose to introduce a bill amending the law creating the Commission of Fisheries to provide for commissioner of fish and game to have general direction of the law enforcement in these two departments.

MEANS NO DETRIMENT
TO OYSTER INTERESTS

Such a device would avoid the creation of the new office of game commissioner contemplated by the bill in its present form. It is believed by the patrons of the game bill that the change can be effected without detriment to the fish and oyster interests, and with approximately the same benefit to the game interests that would flow from the creation of the distinct office provided by the unamended bill.

Another amendment, which the patrons have agreed to accept, provides that the local game warden shall be appointed by the proposed State Commissioner of fish and game from a list of candidates to be furnished him by the Boards of Supervisors of the counties.

While the patrons of the game bill would have preferred the measure that was introduced, they are forced to recognize conditions and to meet them. Delegate Willis yesterday. "There is a decided sentiment against the creation of new offices, and while we have the votes pledged to pass the bill, it is not desirable to override the wishes of a large minority, or frame a measure so unpopular that it may not be enforced."

The bill was on the House calendar yesterday on its second reading. Upon the motion of Delegate Willis, shortly before adjournment, it was sent back to the Committee on General Laws, a large number of the bill are Delegates H. P. Baker, Henley, Pitts, Norris, White, B. D. Adams and Blinn.

HOUSE ADOPTS BROWNING
ANTIVICE BILL, 22 TO 12

For more than two hours yesterday the House of Delegates, with galleries cleared of women, debated the Browning antivice bill. After voting down every amendment offered from the floor except one, the House passed the bill by a vote of 22 to 12. It goes now to the Senate for concurrence.

The amendment which was adopted requires, before a conviction can be secured for a violation of the provision against the erection, maintenance, use, lease or occupation of any building or place for immoral purposes, it must be shown that a person "knowingly" permitted such use of premises owned or controlled by him. It protects the owner of property rented or leased in good faith to a tenant who proves later to be vicious.

SENATE PASSES STEPHENSON
ANTIGAMBLING BILL

The Senate contributed its share to the moral reform program by passing the Stephenson antigambling bill, which makes it a misdemeanor to play at any game for money. The bill was passed by a vote of 23 to 4. It has already received the approval of the House, and goes now to the Governor for his signature. The act makes gambling punishable by a fine of not more than \$100 or imprisonment for not more than sixty days, or both. Under the present statute, no cognizance is taken of gambling unless \$20 or more is lost by an individual during any twenty-four hours, or unless the gambling takes place in a resort maintained for this purpose.

The antivice bill is practically a copy of the draft law and the law under which the city of Washington closed its segregated district about two years ago. It provides for injunction proceedings against owners and agents of property devoted to immoral uses, and is designed to destroy the social evil by striking at its habitation.

DECLARES USE OF HOUSE FOR
IMMORALITY TO BE NUISANCE

The maintenance, occupation or use of a house for immoral purposes is declared by the bill to be a nuisance against which any responsible citizen of the State may maintain a suit in equity in the name of the State, for the purpose of perpetually enjoining its continuance.

Section 2 of the bill provides that a court, or judge in vacation, shall upon the presentation of a bill alleging that the nuisance exists, sworn to by two reputable citizens, allow a temporary writ of injunction, without bond. The injunction is made binding until dissolved by the court, and a violation of it is to be punished as contempt.

Delegate Willis sought to have this section amended by striking out the words "without bond." The amendment was rejected by a vote of 28 to 23. The bill provides that a suit for the establishment of the nuisance charged, the contents and furnishings of the house in which it was conducted shall be sold in the manner provided for the

(Continued on Third Page.)

SEE THE APPAL.
Passengers using C. & O. fast trains to Norfolk can view captured steamer Appam anchored Newport News.

EDUCATION BOARD DRAWING 'DEFENSE'

Two Minority Members on Sub-
committee to Explain School-
book Adoption.

WILL MEET AGAIN TO-DAY

Senate May Hear From Both
Sides as to Reasons
for Action.

All day yesterday and late into last night a committee of the State Board of Education worked on a report to the State Senate defending its course in schoolbook adoptions. Whether the board, which meets again to-day, will sanction the "defense" drawn up by its committee remains to be seen. Nothing would be given out last night, nor would the minority members, who did not concur in the schoolbook adoption, indicate whether they would to-day attempt to prevent frequent bills aimed at it.

Under a resolution offered by Senator Jeffers, the State Board of Education was asked to explain why recent changes in textbooks were made. The issue has become a live one before the General Assembly, and already several bills aimed at preventing frequent changes in school textbooks have been offered, while more drastic propositions have also been suggested looking to a change in the composition of the State Board of Education, only three ex-officio members—the Governor, Attorney-General and Superintendent of Public Instruction—being now elected by the people. These three composed the minority which objected to the adoption of books of a higher price than were offered by local publishers—an adoption made by the educator members not elected by the people.

TWO MEMBERS OF
MINORITY ON SUBCOMMITTEE

The subcommittee named to draw up the defense is composed of Attorney-General John Garfield Pollard, Superintendent R. C. Stearnes, and Harris Hart, superintendent of the schools in Hanover.

If this answer to the Senate resolution is adopted by the State Board of Education to-day, it may mean that it will be the sole answer to the Senate of this interesting question. If it is not adopted, there is room for belief that a minority report will be handed in.

When the last book adoption came up for discussion in 1914, the board invited bids on the new adoption. When that the prices on bids had been considerably advanced, and it was freely stated that in several instances the prices were higher than are charged for the same books in other States. A committee was appointed, and it was reported that the publishers were asking too much for the books. All bids were then thrown out, and new bids were called for. All old contracts were extended for one year, and new committees were appointed to investigate prices.

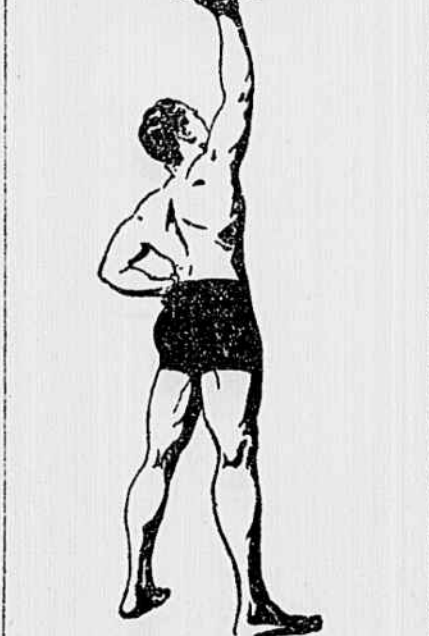
When the new bids were opened, the only company, practically, to make any reduction was the E. F. Johnson Publishing Company of Richmond. This company reduced its first price by 10 per cent, provided its entire list of books was retained.

LOCAL COMPANY LOST
TO HIGHER BIDDERS

By a vote of 5 to 3 the Johnson company's books were discarded and the higher-priced books adopted in lieu of those discarded. Governor Stuart.

(Continued on Second Page.)

YOUR
DOLLAR
DOUBLES
IT'S POWER
DOLLAR DAY



Wednesday, February 16
Richmond's
Dollar Day

The Latest News of This Event Will
Be Given in The Times-Dispatch
on the Morning of the Sale

ARMY BILL ALMOST READY FOR HOUSE

Main Features Already Whipped
Into Shape With Com-
mittee Approval.

HAY CONFERS WITH WILSON

Final Legislation Will Be Worked
Out as Compromise in
Conferences.

WASHINGTON, February 9.—With President Wilson personally urging both Democratic and Republican members of the House Military Committee to hasten preparation of bills to carry out the army's part in the national preparedness scheme, indications to-night were that the measures might be ready for the House within two weeks or less.

Hearings will come to a close to-morrow or the next day, and it is understood the main features of the bill already have been whipped into shape, which it is expected will have virtually the unanimous approval of the committee.

The Senate committee already has concluded its hearings on army bills, and will take up the work of drafting its proposals for the Senate early next week.

There also the general outline of the plan to be recommended has crystallized in the minds of the members.

The bills of the two houses, it is expected, will differ radically, and the final legislation will be worked out as a compromise in conference.

Progress also was made to-day on navy legislation, the measures paving the way for construction of battleships 43 and 44 at navy-yards and providing for 300 additional midshipmen in the July class at Annapolis being passed by the Senate. They passed the House yesterday, and lack only the President's signature to become law. Speaker Clark, in line with his recent speech in the House advocating that the personnel at both Annapolis and West Point be doubled, introduced a bill to-day to make such an increase in the number of cadets at the Military Academy.

HAY DISCUSSES PLANS
WITH PRESIDENT WILSON

Chairman Hay, of the House committee, and several of his Democratic colleagues, discussed army plans with President Wilson during the day. At President Wilson's suggestion, tomorrow Representative Kahn, ranking Republican member, and others of the minority will go to the White House on the same errand. It is understood the President was pleased with the report on progress Chairman Hay was able to give him.

It was evident, however, in latter proceedings of the committee that Representative Hay had not been swayed from his opposition to Secretary Garrison's proposal for a continental army, which the President warmly advocated during his recent preparedness campaign trip to the Middle West. A witness before the committee said he was opposed to the continental plan. "So am I," interjected Mr. Hay. "We are all."

Democrats and Republicans of the committee agreed to-night in saying that the army bill would be quickly written, although there might be considerable debate to settle the future of the House bill. It was said, through a pay bill carrying limitations designed to give the War Department control in peace times over the training and officering of the National Guard.

The Adjutant-General Foster, of the Florida National Guard, chairman of the executive committee of the National Guard Association, was again in Washington to-night, and it was understood he would be further consulted, in order that the bill might be made acceptable to the State soldiers.

DESIGNED TO SETTLE
CONFLICT IN AUTHORITY

Coupled with the pay feature of the bill probably will be Chairman Hay's plan to authorize the President to draft national guardsmen into the Federal service immediately in time of war. This is designed to settle any conflict of authority that might arise, and also to insure that the whole membership of the guard will be available for Federal uses, the number not being dependent, as now, upon how many volunteer.

For the regular army the bill probably will provide 40,000 additional men asked for by Secretary Garrison, although the committee is said to be about equally divided on the Hay and Garrison plans for making the increase. Representative Hay proposes to fill existing regiments up to full war strength and increase only the number of artillery regiments, while Secretary Garrison has asked for additional skeleton regiments of infantry and artillery to make up tactical divisions. Opinion of army officers who have testified has been divided on this point, but committee members think they can reach an agreement among themselves.

An element of the committee favors continuance of the practice of government manufacture of army munitions, and on this aspect of the plans the committee will face a struggle with its own ranks. Some members believe that those favoring the War Department's attitude of providing work enough for private plants to insure a big war-time capacity have enough support to secure this end in the bill.

Hearings were continued to-day on the bill, with Rear-Admiral Blue still on the stand.

TRAVEL BY BOAT TO BALTIMORE.
Fares: \$2.50, first class; \$2.00, second class.
York River Line, Office 997 East Main St.

French and Germans in Furious Combat

THE French and the Germans have been engaged in furious combat on the sector of the Western front between Lens and Arras, where recently there has been great activity. Berlin reports that to the west of the town of Vimy the Germans captured French positions over a length of 800 yards. Paris admits that the Germans, after the explosion of two heavily charged mines, gained a foothold in portions of a French trench, but says that they were driven out by hand-grenade attacks.

Southwest of Vimy, in the vicinity of the road running from Neuville to Thelus, the Germans discharged another mine and then essayed an attack against the French, which was repulsed.

Paris also reports that the French, in a grenade attack, drove the Germans from a small post between Sollesmes and Rheims, and that the French batteries have badly damaged German organizations in the forest of Apremont, southeast of St. Mihiel.

On the Russian front Berlin records the repulse of Russian infantry attacks on several points in the Riga region.

BERMUDA HEARS NOTHING OF REPORTED SEA FIGHT

Unable to Confirm Report That
British Cruiser Drake Captured
German Cruiser Roon.

WITHOUT ADVICES AT HAMILTON

News Contained in Message in Code,
Which New York Paper Says Is
Reliable—British Consulate Lacks
Official Confirmation.

HAMILTON, BERMUDA, February 9.—If a battle has taken place between the British armored cruiser Drake and the German cruiser Roon off Bermuda, nothing is known here of the occurrence. Numerous inquiries have failed to confirm the report that the Drake attacked and captured the Roon. These vessels have not reached this port, and so far as can be learned, no advices have been received at Hamilton to indicate that the Drake has taken a prize into any other Bermuda port.

NEW YORK PAPER PRINTS
STORY OF BOON'S CAPTURE

NEW YORK, February 9.—Advices received here to-day assert that the German warship Roon, alleged to be the captor of the Appam, has been captured by the British battleship Drake after a three-hour fight 200 miles east-northeast of Bermuda—according to a story printed by the New York Evening Globe.

The capture of the Roon is said by the Globe to have been followed by the seizure of two merchantmen flying the German flag, one of which was armed. The story is contained in a message which the Globe states it received in code from a reliable source in Bermuda. The message reads:

"Drake here to-day towing Roon. Roon 200 knots east-northeast Bermuda, three hours' running fight. Lost Danforth eighteen men. Her losses about one-third. Struck as we came aboard. Two merchantmen with her, one armed. Took both. Brought here. Seagrave on sighting Roon said: 'Please God, to-day I will avenge Craddock.' Roon badly knocked about by thirty torpedoes and 719 men taken in the three prizes."

The Seagrave mentioned in the message is supposed to be Captain Seagrave, who, with Admiral Craddock, when the latter went down with his flagship, the Good Hope, which was sunk in an engagement with a German squadron off Chile.

There was no Danforth among the officers in the British navy list.

For several days reports have been current in maritime circles here that the German commerce raider had been either sunk or captured by the British. The British consulate, however, has received no official confirmation of this report.

SMITH-DORRIEN QUILTS

Relinquishes Command of British
Forces in East Africa, Being Suc-
ceeded by General Smuts.

LONDON, February 9.—Sir Horace Lockwood Smith-Dorrien has relinquished the command of the British forces operating in East Africa, owing to ill health. It was officially announced to-night.

General Jan Christian Smuts, the Minister of the Interior, Mines and Defense of the Union of South Africa, has accepted the vacancy with the rank of temporary lieutenant-general, the announcement added.

Last November, when the Union conferred the rank of lieutenant-general on him, the government had offered the command to General Smuts. For various reasons, he was then unable to accept it.

BARGE SINKS AT SEA

Captain and Crew Rescued by Life
Guards From Cape Lookout
Station.

BEAUFORT, S. C., February 9.—The coal-laden barge St. Nicholas, which was being towed from Savannah, Ga., for New York, by the seagoing tug Edgar F. Coney, sprang a leak last night and sank fourteen miles north-east of Frying Pan Shoals. The captain and crew were rescued by life guards from the Cape Lookout station, and arrived here to-night on the tug.

PUBLIC INTEREST HURT BY BRANDEIS, CHARGES THORNE

Appeals Against His Confir-
mation to United States
Supreme Court.

MADE FATAL CONCESSION
TO CAUSE OF RAILROADS

Alleges Preconceived Notions as
to High Returns on Rail-
road Investments.

QUESTION OF ETHICS RAISED

Railroad Commissioner of Iowa on
Stand at Two Long
Sessions.

WASHINGTON, February 9.—Charging that Louis D. Brandeis, as counsel for the Interstate Commerce Commission in the 5 per cent advance rate case, conceded the cause of the railroads to the fatal injury of the public interest, Clifford Thorne, railroad commissioner of Iowa, and an associate counsel in the rate case, appealed to-night to the Judiciary subcommittee of the Senate not to recommend confirmation of Mr. Brandeis's nomination to the Supreme Court of the United States.

Mr. Thorne argued that it would be very costly to the American people to put on the Supreme Court bench a man with preconceived notions as to high returns on railroad investments, in view of the fact that questions involved in the national appraisal of railroads now going on ultimately would have been determined by that tribunal. Summing up his case, he declared:

"I have shown conclusively from the records that Mr. Brandeis has committed himself to the proposition that a return on the capital stock of railroads of 7-1/2 per cent is, to use his own words, 'a reasonable rate.' That is the return which the Interstate Commerce Commission unanimously determined was adequate. Further, the investors of this country have decided that a stock yielding 7-1/2 per cent in the market places of the country is worth 10 cents on the dollar. I have repeatedly charged that one to name a security which earns that amount that does not command par or above par."

RELATES TO MATTER
OF PROFESSIONAL ETHICS

"The other proposition which I have attempted to show is entirely independent of the merits of the rate case, and whether Mr. Brandeis was right or wrong in his position as to the adequacy of the rate. The other proposition related to a matter of professional ethics. I have shown you that Mr. Brandeis was employed by the Interstate Commerce Commission with specific instructions not to advocate any particular theory as to the disposition of the case. He was asked if he was willing to take the burden of seeing that the other side of the case was developed, and told that the railroad side would be adequately cared for. I have tried to show that Mr. Brandeis had expressed the greatest confidence in the presentation of the rate case by assistants to counsel."

"I have shown that Mr. Brandeis cooperated with us in a cross-examination during the rate case and who was employed by the Interstate Commerce Commission, yet at the critical time, Mr. Brandeis, without warning to other counsel, after all argument had been closed on behalf of the public, conceded entirely to the railroads. Had I known that such a going to be his position, had he advised us of his decision, stops certainly would have been taken for our protection, and we would have demanded an opportunity to be heard after Mr. Brandeis had closed the argument for the public."

"Coming from Mr. Brandeis, who participated with us in a cross-examination during the rate case and who was employed by the Interstate Commerce Commission, I consider that his concession was practically fatal to the cause of the public. Our work was useless."

Senator Fletcher, questioning the witness regarding instructions to Mr. Brandeis in the letter from the Interstate Commerce Commission relating to this employment as counsel in the rate case, asked if it was not a fact that Mr. Brandeis was engaged to see that "all sides were taken care of?"

ASSIGNED TO BURDEN
OF "THE OTHER SIDE"

Mr. Thorne said that there was such a proposal in the commission's letter, later on in the letter it was specifically stated that Mr. Brandeis should undertake the burden of "the other side," because the commission knew that the railroads would be adequately represented.

On cross-examination, Mr. Thorne said he had no information that Mr. Brandeis had notified the railroads as to his conclusion. He argued that the railroads were inadequate. He stated that Mr. Brandeis having reached the conclusion he did, he should have retired from the case, or at least from that phase of the case, and notified associate counsel of his conclusions.

Senator Walsh cross-examined the witness about the "surplus" which Mr. Thorne expressed a willingness at the hearings to allow the railroads, and which Mr. Brandeis characterized as "rather niggardly." Senator Walsh contended that Mr. Brandeis was speaking of 1-1/2 or 2 per cent, as the case might be, as designed by accountants to care for nonrevenue-producing problems and lease years. Mr. Thorne insisted that Mr. Brandeis had in mind that this 1-1/2 or 2 per cent was grouped with 6 or 5-1/2 per cent to care for dividends, thus making a total return or surplus of 7-1/2 per cent.

Mr. Thorne occupied the stand at two long sessions of the committee, closing his testimony late to-night. To-